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to attend his wake, she was held but a license. *Hart* v. *Cole,* 156 Mass. 475. But where a boy accompanied his father to inspect a house that the latter contemplated renting, he was an invitee, since it was for the landowner's interest that members of the plaintiff's family inspect the house to aid the prospective tenant in his decision as to renting it, *Kalus* v. *Bass,* 122 Md. 467. And a woman was an invitee who accompanied her husband to a lumber yard to aid in the purchase for her of an ironing board. *Davis* v. *Ferris,* 53 N. Y. Supp. 571. In the principal case the plaintiff was no more than a licensee, a volunteer, although his companion was an invitee. This separation into different characters of two persons who come together, stay together, and go together, is analogous to the considering of one man as an invitee as to part of the occupant's premises and a licensee as to the rest. In *Herzog* v. *Hemphill,* 7 Cal. App. 116, the plaintiff entered defendant's tamale stand to buy tamales. Here he was an invitee. But when he went into the cellar for purposes of nature he was a licensee as to that portion of the premises and had only the rights of such.

PRINCIPAL AND AGENT—TRAVELING SALESMAN—AUTHORITY TO TAKE ORDERS.—The traveling salesman of a vendor took an order from the trustee of a saloon attached by creditors, agreeing that his principal should come in *pro rata* with the other creditors and that the vendee was to be bound only as trustee and not personally. The principal shipped without knowledge of the restricted liability stipulated for. *Held,* three justices dissenting, it was within the scope of the agent's authority to take an order with such an agreement, and the principal was bound by it. *Rothchild Bros.* v. *Kennedy,* (Ore., 1917), 169 Pac. 102.

The general rule of law as to the extent of a drummer's authority can be simply stated. In common with other selling agents, he has power within the limits openly fixed by the principal or determined by usage and custom, to agree upon the terms of the sale and do what is incidentally necessary to effectuate it. *Daylight Burner Co.* v. *Odlin,* 51 N. H. 56; *Blaess* v. *Nichols,* 115 Ia. 373; *Leach* v. *Beardslee, 22* Conn. 404; STORY OF *AGENCY,* (Ed 8), sec. 106; TIFFANY ON AGENCY, sec. 48 *et seq.* The terms he makes must be usual and reasonable, not extraordinary. *Beck* v. *Freund,* 117 N. Y. Supp. 193; *Putnam & Co.* v. *French,* 53 Vt. 402; MECHEM ON AGENCY (Ed. 4), sec. 362. But the application of the rule to particular cases in which the agent has made an agreement with the vendee often brings the question of custom and reasonableness squarely before the court. This has led to the laying down of several doctrines. An agent may not sell at a price so far below the market price as to put the vendee on inquiry as to his authority. *Mabray* v. *Kelly-Goodfellow Shoe Co.,* 73 Mo. App. 1; *Brown Grocery Co.* v. *Becket, 22* Ky. Law Rep. 393. He cannot bind the principal by secret rebate agreements. *Tollerton & Warfield Co.* v. *Gilruth,* 21 S. Dak. 320; *Taylor Mfg. Co.* v. *Brown,* 4 Tex. Ct. of App., Civ. C. 19. He cannot take satisfaction of his personal obligation to the vendee as payment. *Shoninger* v. *Peabody,* 59 Conn. 588. He cannot make warranties not recognized by

usage or authorized by his principal. *Holcomb* v. *Cable Co.*, 119 Ga. 466. Though he may do so within the customary limits of his line of business. *Blaess* v. *Nichols, supra.* The principal case comes close to infringing on many of the doctrines here laid down, and is at swords' points with other decisions in the salesman field. Traveling men almost universally sell on commission and it is to their interest to enhance their sales as much as possible. In *Lindow* v. *Cohn*, 5 Cal. App. 388, a drummer agreed to take as part payment, previously sold goods, which had not come up to warranty. His principal shipped the goods, in ignorance of the agreement, and was allowed to recover the whole purchase price. In *Friedman & Sons* v. *Kelly*, 126 Mo. App. 279, the traveler agreed that his firm would take back all goods unsold at the end of the season. His principal was not bound by the agreement. In *Ide* v. *Brody*, 156 Ill. App. 479, the drummer was willing, in order to make a sale, that his firm allow a return of any goods not satisfactory which should in the future be sold to this vendee. The principal was allowed to repudiate the agreement. The majority opinion in the principal case goes on the grounds that the subsequent shipment by the principal is an acceptance of all the terms as made by the agent, since it was the latter's duty to notify his principal of those terms and such knowledge will be imputed. This seems to beg the entire question of the agent's authority, since knowledge of an agent's acts can be imputed to the principal only when the agent is acting within the scope of his authority, and not when he knows that he is overstepping the bounds of his powers. See *Clement* v. *Young-McShea Amusement Co.*, 70 N. J. Eq. 677. The doctrine of the principal case appears to go further than is necessary for the protection of purchasers from drummers, and to put in the hands of traveling salesmen more power than is desirable.

WAR—MILITARY AUTHORITIES—JURISDICTION TO TRY OFFENSE.—A soldier, after declaration that a state of war existed between the United States and Germany, killed a policeman of a Kentucky city. He was turned over to the civil authorities. His captain and major consented on the same day that the civil authorities should proceed with the case. A writ of *habeas corpus* was sued out for his surrender to the military authorities, the commanding officer of the brigade asserting prior jurisdiction in the courts-martial. *Held*, that the military authorities had superior jurisdiction of the offense and that the hasty consent of the soldier's captain and major was not a waiver of jurisdiction as against the commanding officer of his brigade. *Ex parte King*, (1917), 246 Fed. 868.

This case is the first decision handed down on the prior jurisdiction of the military courts over a soldier committing a homicide during time of war, although there are some *dicta* to the same effect in the cases bearing on the question. The present decision comes under the War Act, Aug. 29, 1916, U. S. Compiled Stat. 1916, Sec. 2308-a which takes place of Section 1342 U. S. Rev. Stat. Previously, under Sec. 1342 a soldier of the United States could be court-martialed in time of peace for offenses committed by him in